TRAVANCORE
GOVERNMENT GAZETTE,
SUPPLEMENT.

TUESDAY
2nd May 1893.

Abstract Proceedings of the Travancore Legislative Council.

An extraordinary meeting of the Council was held in the Dewan's room, Public offices, at 2 P. M. on Thursday the 13th April 1893, to consider the Towns' Improvement Bill.

PRESENT:—

The Dewan, ... *Presiding.*
M. R. Ry. K. Krishnaswamy Row Avergal.
Mr. F. Watts.
M. R. Ry. V. Nagamaiyar Avergal.
Mr. T. F. Bourdillon.
M. R. Ry. P. Thanoo Pillay Avergal.
M. R. Ry. Kerala Varma Avergal, Valia Coil Tampuran.
M. R. Ry. N. Madhavan Tampi Avergal.
M. R. Ry. E. Rama Iyer Avergal.

The Secretary presented the following papers. As copies of the same were previously furnished to the members, they were taken as read:—

From whom received.	Purport.
The Rajah of Perpanangady ...	His opinion on the Departmental Enquiries Bill.
Mr. Nagam Aiyer	Proposed amendments to the Towns' Improvement Bill.
Mr. Rama Aiyer	Proposing to ask for permission to introduce a Bill to provide rules for the testamentary disposition of property.

Mr. Thanoo Pillay moved that the Towns' Improvement Bill be taken into consideration.

Mr. Nagam Aiyer then explained the scope and objects of his amendments and moved the first amendment viz., that for Section 14 (2) the following be substituted.

"In such cases the President shall, after taking action, call a meeting of the Committee and acquaint them with the action taken by himself, and if a majority of members present disapprove of the step taken, he shall report the same to Our Government, explaining his reason for using the power under this section, ~~see sh~~ orders as they may deem fit to pass." ...g it by a

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He said :—" My object in moving this amendment is to avoid the awkwardness of the Committee being ignorant of a certain class of cases, namely, those in which the President has thought fit to take immediate action. The Committee should be in possession of all action taken under this Regulation, whether ordinary or emergent. While I think it quite necessary that the President should be empowered to take immediate action in emergent cases, I think it equally necessary that the Committee should be acquainted of such action as soon as taken. And if the Committee should confirm the action taken by the President, no report to Government would be necessary. It would be treated as any other ordinary case in which no report would be called for. His report to Government will be necessary only where the Committee disapprove."

Mr. Madhaven Tampi seconded the motion.

Mr. Watts thought the amendment was not necessary. He observed :— " This power was given to the President to be exercised in cases of urgency when it would not be practicable to call a meeting of the Committee. If such a meeting could be held immediately after the President's order and before it was carried out, it could as well be held before the issue of the order. If the action taken by the President was wrong, the correction would be applied by the Government to whom an immediate report has to be made. This sufficiently protects any interests affected by the President's order. To submit for the Committee's approval the action already taken by the President on an emergency is likely to lead to friction without serving any useful purpose. As for communicating the information to the Committee, the records are open to them, and any member might inform himself of the President's action at any time."

Mr. Rama Aiyer also spoke against the amendment. He said :— " Section 14 (1) is intended to provide for cases of emergency when it may be necessary to take action immediately and not expedient to wait till a Committee could be called together. To provide a check upon the President who takes such immediate action, clause (2) provides for an immediate report to Government, that Government which is the final authority under this Regulation may either stay or veto the action taken by the President without any loss of time in case the Government think fit to do so. The amendment proposed will, in my opinion, utterly defeat the above objects. The mover of the amendment proposes that first a meeting of the Committee should be called to consider the propriety of the step taken by the President and if the majority of the Committee disapprove of the action taken by the President, then to report to Government. It need hardly be said that this report can reach Government only a long while after the time within which the report would reach Government if the provision of the Bill is retained. While the amendment proposed agrees with the provision of the Bill in that the Government alone should be empowered to veto the action of the President, it deprives the Government of an opportunity to take early action which is very essential in such cases. If the object of the mover is to keep the Committee informed of what has been done by the President on his own authority, I have no objection to making an additional provision towards securing that object. But I find it difficult to agree to the proposal of dispensing with an immediate report to Government. I would therefore strongly oppose the amendment."

After some discussion, the motion was put to the vote and was lost by a majority of 5 against 3, Mr. Krishnaswamy Row declining to vote. He observed that " it is desirable that the Committee should know what the President has done in order that they may communicate their views to Government, but it is, however, inexpedient, after the action is taken, to call a formal meeting and take votes. As a majority of the Council are against allowing the Committee to do anything in such matters, I abstain from voting on this motion and from moving for an amendment in accordance with my views."

Mr. Nagam Iyer moved his amendment viz., that the word " President " be substituted for " Committee " in Section 16 (1) as he thought it is a kind of convenience to the public.

Mr. Bourdillon seconded the motion.

Krishnaswamy Row supported the amendment, remarking that in Vice-Presidents exercised such power.

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Carried. Mr. Rama Aiyer dissenting. He said :—

"I think it is unnecessary to vest the power under this section in the President, taking it away from the Committee. If the object of the proposer is to avoid delay in getting the permission when such delay would be inconvenient to the applicant, such object is well secured by the provision of Section 14 (1) by which the President is authorised to do any act that might be done by the Committee in cases of emergency. Further, if we substitute the word "President" for "Committee" it comes to this : that the President while empowered to grant the permission under this section is rendered equally competent to refuse such permission. There is no provision in such cases for the Committee to interfere in case they disagree with the action of the President in refusing such permission."

Mr. Nagam Aiyer again said :—"I also move a second proviso to Section 16 (1) to exempt from application for permission, all buildings temporarily put up for such purposes as marriage, &c. and removeable within a period of 15 days, as it will be a great inconvenience to a large body of the public to have to do so. When the buildings are removeable within a period of 15 days, the necessity for an application for permission can be well dispensed with, as it would save a hardship." The proviso would stand thus :—"Provided also that no such permission shall be necessary in the case of buildings temporarily put up according to long existing custom for marriage &c. and removeable within a period of 15 days."

Mr. Krishnaswamy Row opposed the motion. He said :—"The proposed amendment will virtually render Section 16 inoperative. As the President is authorised to grant permission, there could be no reasonable apprehension of delay."

Mr. Rama Aiyer also spoke against the amendment thus :—"This is really taking away by one hand what has been given by the other. The main clause provides for obtaining permission for the temporary occupation of any street. According to the proviso, permission is necessary only in cases of occupation beyond 15 days. If permission is necessary in any case of temporary occupation, I cannot understand why an occupation for 15 days should be exempted from such rule. Can it be said an unconditional occupation for 15 days will cause no inconvenience to the public? The object of giving the permission, as will appear from the provision of the section, is to impose upon the occupier certain conditions for securing the safety and convenience of the public that pass by or dwell in the neighbourhood. How can it be said that such conditions are unnecessary in cases of occupation for 15 days? I have therefore no doubt in voting against the amendment."

Mr. Watts observed that marriages were occasions for large gatherings and much feasting, in consequence of which there would be the greatest risk from fire in the cooking sheds. If restrictions and precautions were necessary at any time, they certainly were on marriage occasions.

On being put to the vote, the motion was lost.

Mr. Nagam Aiyer moved to omit the last two lines in Section 17 (3) viz., "and replace it with such materials as are not inflammable and recover from him the cost thereof with interest in the manner hereinafter provided."

Mr. Madhaven Tampi seconded the motion.

On being put to the vote it was lost.

Mr. Nagam Aiyer moved to add the following to the same section. "If either at or before the time of removal of the roof or wall, the owner put in an application for extension of time, the Committee shall consider the same and pass such orders as they may deem fit." He said :—"There may be reasons in special cases why an application for an extension of time should be considered."

In seconding the motion Mr. Rama Iyer said :—"This provision is necessary to meet such cases as when a person is unable, owing to absence or other good cause, to attend in time under the notice given, but is prepared to act according to the requisition of the Committee if further time is granted. The Committee in granting such further time will, while attaining their object, be *only* delaying it by a few days."

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Carried.

Mr. Nagam Aiyer moved to add the following as sub-section 5 after Section 17 (4). "Whoever renews a roof or wall removed in pursuance of notice under sub-section (2) or under sub-section (4) with leaves, mats, grass or other easily inflammable materials shall be punishable with fine which may extend to 50 Rs."

Mr. Krishnaswamy Row observed that the provisions of Section 38 were sufficient to punish disobedience of orders given under Section 17 and that no separate penal clause was necessary.

The motion was withdrawn.

Mr. Nagam Aiyer moved to omit the present sub-sections (5), (6), (7) and (8) of Section 17 and to substitute the following :—

"(5). The owner of any building, the roof or wall of which has been removed under sub-section (2) or sub-section (4) or which being situated within the specified limits of a Town referred to in sub-section (1) he wishes to remove for the purpose of renewing the same with non-inflammable materials, may apply to the Committee for a loan of money. Such application shall specify the amount applied for and shall also state—

(a) whether the applicant cannot renew the wall or roof without help

(b) and what the market value of the site and the grounds attached to it is.

"(6) On receipt of such application the Committee shall make the necessary enquiries to satisfy themselves as to the genuineness of the application and with the sanction of Government make such loan as they may think proper, fixing the time within which the renewal should be completed.

"(7) The amount lent shall bear interest at 3 per cent per annum from the date fixed for completion of work and shall be repayable with interest in 4 equal and annual instalments in the manner provided for recovery of arrears of public revenue. This amount shall be a charge on the building, on the land on which the building stands and on the compound, if any, attached to the building and shall take precedence over any encumbrance on the property of a prior or subsequent date. It shall be recovered for the Committee by the Dewan Peishcars of the Division in which the Town is situated. The first instalment shall become due on the expiry of twelve Malabar months from the date fixed for completion. If by process of attachment and sale, a sum larger than the amount due on account of the expired instalment be realised, the excess shall be applied in liquidation in part or whole of the amount due in respect of the other instalments, although they may not have fallen due."

He said :—

"I do not believe in the feasibility of the Sircar building private houses for the people. Such undertaking will be productive of the greatest inconvenience to the Sircar as well as hardship to the people. I quite agree in the necessity to help His Highness' subjects by affording them protection against fire, but I differ only in the *form* in which that help ought to be rendered. A money loan is far more convenient to the Sircar as well as to the people than a loan in the form of materials and workmanship. I have provided for the security of moneys *lent* in the same manner as the Select Committee have provided for the security of the money *expended* in the buildings."

Mr. Madhaven Tampi seconded the motion.

Mr. Watts opposed the motion and said :—"This Bill does not profess to deal with loans. The person concerned may apply to the Sircar just as he may apply to any other person, and it would rest with the Government to grant it or not. If they grant it, he can tell the Committee that he will himself comply with their requisition. The Committee defraying the expenses of the renewal is itself a loan

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recoverable by the Bill in very easy instalments and with a very small interest. The Committee undertaking the work gives the Government a guarantee that it will be done which the loan to the applicant direct does not.

Mr. Rama Iyer also spoke against the amendment. He said :—

"*Gentlemen*, In my opinion the mover of the amendment has not fully foreseen the logical conclusions to which his proposals will lead and I also think the object of the Select Committee in making the proposals contained in Section 17 is not well understood. I would therefore as a member of the Select Committee make a few observations to explain the position of the Committee in reference to this matter. The mover of the amendment seems to agree with the Select Committee so far as the pulling down of the roofs is concerned when they are made of inflammable matter. It is from this point his proposals differ from those of the Select Committee. Let us first examine what his proposals are. Shortly stated they come to this :—

(1) After pulling down a house leave it in that state.

(2) Make it penal to rethatch the roof with inflammable matter.

(3) If the owner of the house applies for pecuniary assistance and if the application is genuine, give him a loan.

(4) Recover the said loan from the person in certain instalments at 3 per cent.

(5) Create a lien or charge upon the building and the site for the said loan.

It will be noted that the proposer makes no provision for cases in which a person taking the loan does not use it for the purpose of renewing the roof. I would ask the learned mover what is to be done if the money so received by a person is used for making a jewel for his wife instead of renewing the roof. Again what real security is there for the loan so advanced ? The security of the building is, to say the least, uncertain, inasmuch as the building of the house itself is problematical. Further, what is the standard for deciding whether the application for a loan is genuine or not ; and if it is not genuine what is to be the state of the house that has been pulled down by the Committee ? Are you, Gentlemen, prepared to give power to the Committee to pull away the roofs of a whole street or a portion of a street and desert the streets in an unseemly condition leaving the occupiers of the houses to themselves ? If you are not prepared to do that, I say you cannot but adopt the proposals of the Select Committee in preference to the amendments proposed. The proposals of the Select Committee provide for the renewal of the roof by the Committee itself with non-inflammable matter in case the owner or occupier does not do it within the prescribed time. Proper safeguards are also provided against overcharge as far as possible in the way of making estimates and giving an opportunity for the owner or occupier to question those estimates. Provisions are also made for the recovery of such amount by easy instalments with a low interest. There is, further, the building which may be counted upon as lien for the recovery of the amount. I ask you to consider whether these provisions are not sufficiently safeguarding against the difficulties just pointed out in the proposals of the mover of the amendments. Nobody can deny and the Select Committee of course do not deny that to pull down a roof and undertake to build unasked, is ordinarily a course not to be hastily adopted. But it is not always possible to attain a good end without sacrificing a little in some direction or other. If you want to preserve your streets and houses from that dire agent of destruction, fire, and if therefore the roofs with inflammable matter have to be removed, I say the best course of compensating for the coercive step of removing is to build it under the conditions proposed. And as the mover himself is prepared, as I have already stated, to allow the forcible renewal of the roof I cannot understand how the renewal of it in the manner proposed can be objected to.

On being put to the vote, the motion was lost by a majority of to 1, Mr. Bourdillon declining to vote.

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Mr. Nagam Aiyer's next amendment viz.

"To omit the words 'or estimate' in Section 17 (9).

"To omit the words 'or estimate' in both the places where they occur in Section 17 (10).

"To omit the words 'or estimate' in Section 17 (12).

was withdrawn as it was dependent on the previous amendment which was lost.

Mr. Nagam Aiyer then said:—"I move that Section 20 be altogether omitted as it will cause interference with the long existing rights and a great deal of unnecessary annoyance and hardship to the people. The compensation to be granted would be difficult to settle for the removal of what is considered a projection might considerably alter the value of a house. It is scarcely necessary for the purposes of this Bill, mainly intended to protect houses from fire, that we should have a section like this with a retrospective provision."

Not being seconded, the motion was lost.

Mr. Nagam Aiyer moved to substitute in line 1 Section 33 the words "any of its members" for "any person authorised by it in this behalf." He said:—"I move this amendment and wish to confine the authority to inspect, to only members of the Committee, as the proviso to that section permits inspection of places of worship and the apartments of women."

Mr. Madhaven Tampi seconded the motion.

In opposing the amendment Mr. Rama Iyer said:—"Oftentimes it is persons such as an Engineer or a Health Officer that may have to enter a building for the purpose of inspection. How such cases can be covered by allowing the members of the Committee *alone* to enter the buildings is difficult to understand."

On being put to the vote the motion was lost.

Mr. Nagam Aiyer moved to add the words "or the President" after "Committee" in two places in Section 35, and said:—"I move this amendment, for there may be appeals against the action of the Committee as well as of the President."

Mr. Rama Iyer seconded the motion.

Carried.

Mr. Nagam Aiyer then said:—"I think it necessary that no prosecution shall be started except by an order of the Committee or Government. I move, therefore, that the following be added to Section 43. 'No prosecution of an offence shall be started except by or with the permission of the Committee or Government.' This is necessary to avoid reckless prosecutions. It is also necessary that those who start a prosecution should have the power of withdrawing it. The amendment which follows provides for it."

Mr. Bourdillon seconded the motion.

Mr. Krishnaswamy Row said with reference to this amendment:—

"In cases falling under Sections 39, 40 and 41 there is no reason why the person aggrieved should not prefer a complaint without the permission of the Committee. When the offence committed is purely one of contempt to the authority of the Committee it is right that the prosecution should be sanctioned by them. If this view be adopted the proper place to insert the proposed provision would be under Section 38."

Carried. The proposed addition to be made under Section 38.

Mr. Nagam Aiyer moved to add the following to Section 38. "The Committee may also withdraw a prosecution at any stage before judgment."

Mr. Bourdillon seconded the motion.

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The President remarked that Chapter XX of the Criminal Procedure Code contained sufficient provisions as regards withdrawals.

Mr. Krishnaswamy Row observed with reference to the above remark "Prosecutions ordered by the Committee will generally be initiated by a servant. The Allahabad High Court have ruled that, for purposes of Section 227 which forms part of this chapter, a servant who prefers a complaint under the orders of his official superior cannot be treated as a complainant within the meaning of this section. I doubt whether the word 'complainant' in Section 225 which forms part of the same chapter will be taken to include the servant who prefers the complaint. If the Council think that the Committee should have the power of withdrawing the charges preferred under their orders, it is advisable to make a distinct provision to that effect. As prosecutions will be commenced with the previous and deliberate sanction of the Committee, it is, in my opinion, not necessary to arrest the ordinary course of law."

On being put to the vote the motion was lost.

Mr. Nagam Aiyer moved to substitute in Section 47 (1) the words "the Committee may carry out the work and when carried out" for "and the Committee has executed the work."

After some discussion the amendment was withdrawn.

Mr. Nagam Aiyer moved to omit the words "deduct the sum so recovered or paid from the rent from time to time becoming due from him to the owner or otherwise" in Section 47 (3). He said :—

"I do not think we should indicate the manner in which the occupier should recover the money he pays to the Committee from the landowner."

This motion was likewise withdrawn.

Mr. Rama Iyer moved to add below Section 16 (1) the following :—

"If the President refuses to grant such permission, the applicant for such permission may apply to the Committee to revise the order of refusal of the President and the Committee may grant the permission if it think fit to do so." He said :—

"This amendment is necessitated by an amendment carried this day by which the word "President" has been substituted for "Committee". I have already pointed out in dealing with the said amendment how the President is equally empowered to refuse permission on his own authority. The question is, what is the remedy for an applicant for permission in such a case. It may be said that he may appeal to Government under Section 35. But would it not be very hard to leave an applicant, say in the town of Alleppey or Paravoor, to apply to Government at Trivandrum in such cases while there is a constituted Committee in the spot and the applicant has not even the satisfaction of having applied to them and obtained their views? Further, though the President may at first refuse to grant a permission, would he not think twice before persisting in such refusal if the members of the Committee differ from him and see no objection to granting such permission? I hope these considerations will commend themselves to you in favour of the amendment."

Mr. Nagam Aiyer seconded the motion.

On being put to the vote the motion was lost.

Mr. Watts moved to omit clause (c) of section 28 viz. "living in a room or house which he neither owns nor pays rent for" and also the words "lodged in premises occupied by members of two or more families and any of such families objects to his continuing to lodge in such premises" in clause (d) of the same section. He said :—

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